

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 13, 2011
POSITION: Oppose

BILL NUMBER: SB 161
AUTHOR: B. Huff

BILL SUMMARY: Schools: Emergency Medical Assistance: Epilepsy

This bill would allow nonmedical school employees to provide emergency medical assistance to students with epilepsy, as specified. This bill would also require the State Department of Education (SDE), in consultation with the State Department of Public Health (DPH), to develop and post online by July 1, 2012, guidelines for training and supervising school employees providing this assistance.

FISCAL SUMMARY

This bill would create state operations costs of up to \$261,000 General Fund for the SDE and the DPH to develop training and supervision guidelines and to update online information. According to the SDE, one School Health Education Consultant and 0.5 Office Technician would be needed. According to the DPH, one Nurse Consultant would be needed. Costs could be lower, depending on the actual workload expected of the DPH in its consultative capacity. We assume these positions would be one year, limited-term.

This bill would not create a state-mandated program because its requirements would be triggered by discretionary actions made by local school districts. However, this bill would generate costs at the local level to the extent that school districts opt to allow its employees to provide medical assistance in the manner specified.

COMMENTS

The Department of Finance is opposed to this bill because it would create new General Fund costs and a pending lawsuit decision could impact this bill's requirements. Further, this bill could create privacy issues unique to the administration of the antiseizure medication Diastat: the latest form of the drug, specifically designed for administration by nonmedical personnel, is administered rectally.

The California Nursing Practice Act (NPA) defines the scope of practice for nursing, which includes the administration of medication, and prohibits any person from engaging in the practice of nursing without a license. Citing the NPA, the American Nurses Association is suing the state (*American Nurses Association, et. al., v. Jack O'Connell, Superintendent of Public Instruction, et. al.*) over a 2007 settlement resulting from a lawsuit initiated by the American Diabetic Association (*K.C. et al. v. Jack O'Connell, et al.*). This settlement, in part, allowed employees other than nurses to administer insulin to diabetic students in order to help school districts comply with the federal Individuals with Disabilities Education Act, which requires that a free and appropriate education be provided to every student regardless of disability, including chronic medical conditions. The current lawsuit, when decided, will help school districts comply with federal and state laws in the provision of services to students with conditions such as diabetes and epilepsy.

According to the author's office, this bill is necessary in order to allow schools to provide the fastest, safest and most effective way of protecting the health and safety of children with epilepsy in schools. The Board of Registered Nursing has concluded that there is no provision in the NPA for unlicensed school personnel to administer antiseizure medication such as Diastat and that school nurses cannot train or supervise unlicensed personnel to administer this medication. As a result, schools are reluctant to allow staff to

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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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administer emergency antiseizure medication, which is given to avoid injury or other medical complications when a "breakthrough" seizure lasts longer than 5 minutes.

Pursuant to this bill, if a school elects to allow employees to volunteer to administer epilepsy medications, the following requirements would apply:

- Nonmedical employees must volunteer to participate and must receive voluntary emergency medical training, as specified.
- Emergency medical assistance must be given (1) only if a credentialed school nurse or other licensed nurse is not onsite, (2) using an approved training plan, as specified, and (3) using instructions given by the student's health care provider.
- The parent or guardian of a student with epilepsy must request to have a volunteer trained to administer emergency antiseizure medication.
- The student's parent or guardian must be notified that the child may qualify for specified special education services.
- The school district shall provide liability insurance, as specified, for employees who volunteer to provide medical assistance.
- School districts must have a plan, as specified, that relates to the administration of a program to provide emergency medical assistance.
- School districts must compensate an employee when the administration of an emergency antiseizure medication is necessary and requires the employee to work beyond his or her normal hours.

The requirements of this bill would remain in effect until January 1, 2017, unless statute enacted before that date extends the requirements.

Related Legislation:

- SB 65 (Strickland) would provide that any pupil who has been diagnosed with cystic fibrosis and is required to take, during a schoolday, medication prescribed by a physician or surgeon may be assisted by the school nurse or other designated personnel or may carry and self-administer prescription pancreatic enzymes if the school district receives the appropriate written statements from parents and physicians. Pending in the Senate Education Committee.
- SB 1051 (Huff), 2010, was substantially similar to this bill. Held in the Senate Appropriations Committee.
- SB 1200 (Leno), 2010, would have required the Department of Managed Health Care and the Insurance Commissioner to develop regulations to ensure timeliness of care for school age children who must receive medically necessary services during school hours. Held in the Assembly Appropriations Committee.
- AB 1802 (Hall), 2010, would have permitted a parent or guardian to designate a school employee to administer insulin during school, as specified. Held in the Assembly Business, Professions, and Consumer Protection Committee.
- AB 2454 (Torlakson), 2010, would have required school districts to employ one nurse for every 750 students and would have authorized school districts to bill a student's health insurer for the cost of health care services provided. Held in the Assembly Appropriations Committee.
- AB 942 (Leno), Chapter 684, Statutes of 2003, authorizes each school district to provide voluntary emergency medical training to school personnel to administer emergency medical assistance to students with diabetes suffering from severe hypoglycemia, as specified.
- AB 559 (Wiggins), Chapter 458, Statutes of 2001, authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes the trained personnel to utilize those epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
6110/Dept of Educ	SO	No	-----	See Fiscal Summary	-----				0001
4265/PublicHealth	SO	No	-----	See Fiscal Summary	-----				0001
6110/Dept of Educ	LA	Yes	-----	See Fiscal Summary	-----				0001